UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/681,910	10/09/2003	Jana H. Jenkins	RSW920030213US1	6409

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EXAMINER
HARPER, LEON JONATHAN

ART UNIT	PAPER NUMBER
2166	

NOTIFICATION DATE	DELIVERY MODE
07/29/2008	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PTOCommunications@hwdpatents.com

<table>
<tr><td rowspan="2">Office Action Summary</td><td>Application No.
10/681,910</td><td>Applicant(s)
JENKINS, JANA H.</td></tr>
<tr><td>Examiner
Leon J. Harper</td><td>Art Unit
2166</td></tr>
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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>25 April 2008</u>.
2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.
3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-32</u> is/are pending in the application.
    4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5)☐ Claim(s) _____ is/are allowed.
6)☒ Claim(s) <u>1-32</u> is/are rejected.
7)☐ Claim(s) _____ is/are objected to.
8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.
10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    a)☐ All   b)☐ Some * c)☐ None of:
      1.☐ Certified copies of the priority documents have been received.
      2.☐ Certified copies of the priority documents have been received in Application No. _____.
      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3)☒ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date <u>10/10/2003</u>.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .
5)☐ Notice of Informal Patent Application
6)☐ Other: _____ .

DETAILED ACTION

Response to Amendment

1.   The amendment filed 4/25/2008 has been entered. Claims 1,11, and 22 have

been amended. No claims have been added or cancelled. Accordingly, claims 1-32 are

pending in this office action.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining

obviousness under 35 U.S.C. 103(a) are summarized as follows:

1.   Determining the scope and contents of the prior art.
2.   Ascertaining the differences between the prior art and the claims at issue.
3.   Resolving the level of ordinary skill in the pertinent art.
4.   Considering objective evidence present in the application indicating
       obviousness or nonobviousness.

Claims 1-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over US

20020120918 (hereinafter Aizenbud) in view of US 6732153 (hereinafter Jakob).

As for claim 1: Aizenbud discloses: providing the message wherein the message is crafted in a natural language by a developer in association with development of a computer program code and delivered by the computer program code and delivered by the computer program code to an end user in response to an event during execution of the computer program code (See paragraphs 0054"input message", 0004); configuring a review standard for reviewing linguistic aspects of the natural language used in crafting the message wherein the review standard includes review parameters selected from a group consisting of: character limits, line limits, spell checks, grammar checks, and a combination thereof (See paragraph 0054 note: the message processing nodes, and customization); and revising the message to address the errors (See paragraph 0054 note: processing nodes can reformat the message), reviewing the message (See paragraphs 0011, 0022).

While Aizenbud does not differ substantially from the claimed invention the disclosure of displaying any errors that are detected concurrently with the message, reviewing the message during development of the computer program code, based on the review standard to detect errors is not necessarily explicit. Jakob however does disclose: displaying any errors that are detected concurrently with the message (See column 6 lines 59-65), reviewing the message during the development of the computer program code based on the review standard to detect errors (See column 7 lines 45-50).It would have been obvious to an artisan of ordinary skill in the pertinent at the time the invention was made to have incorporated the teaching of Jakob into the system of Aizenbud. The modification would have been obvious because the two references are concerned with

the solution to problem of messaging associated with computer program code, therefore

there is an implicit motivation to combine these references. In other words, the ordinary

skilled artisan, during his/her quest for a solution to the cited problem, would look to the

cited references at the time the invention was made. Consequently, the ordinary skilled

artisan, would have been motivated to combine the cited references since Jakob's

teaching would enable user in Aizenbud's system to have had uniformity in any

distributed environment (See Jakob column 1 line 65- column 2 line 2).

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As for claim 2, the rejection of claim 1 is incorporated, and further Aizenbud

discloses: wherein the providing comprises creating a new message (See paragraph

0055).

As for claim 3, the rejection of claim 2 is incorporated, and further Aizenbud

discloses: inputting text for the new message using a message creation interface (See

paragraph 0055), designating whether the new message is an error message, a

warning message, or an information message (See paragraph 0054); inputting an

explanation and suggested user action using the message creation interface if the new

message is an error message or a warning message (See paragraph 0054); assigning a

unique identifier to the new message and sending a notification pertaining to the new

message (See paragraph 0130).

As for claim 4, the rejection of claim 4 is incorporated, and further Aizenbud discloses: displaying the computer program code associated with the new message concurrently with the text for the new message (See paragraph 0091).

As for claim 5, the rejection of claim 1 is incorporated and further Aizenbud discloses: wherein the providing comprises an existing message (See paragraph 0090).

As for claim 6, the rejection of claim 5 is incorporated, and further Aizenbud discloses: inputting a unique identifier corresponding to the existing message (0130); obtaining the existing message based on the unique identifier (See paragraph 0130); displaying the existing message in a message edit interface (See paragraph 0090), editing the existing message in the message edit interface (See paragraph 0090); and sending a notification pertaining to the edited existing message (See paragraph 0090 note: update).

As for claim 7, the rejection of claim 6 is incorporated, and further Aizenbud discloses: displaying the computer program code associated with existing message concurrently with the existing message (See paragraph 0091 note: programmer is stepping through the code with the message).

As for claim 8, the rejection of claim 1 is incorporated, and further Aizenbud discloses: wherein the review parameters for ascertaining a structure of a message are retrieved from a saved resource (See paragraph 0078).

As for claim 9, the rejection of claim 1 is incorporated and further Jakob

discloses: wherein the review parameters are manually designated (See column 6 lines

44-50).

As for claim 10, the rejection of claim 1 and further Aizenbud discloses: wherein

the message and the errors are displayed concurrently with the computer program code

associated with the message (See paragraph 0091).

Claims 11-20 are computerized system claims corresponding to method claims

1-10 respectively and are thus rejected for the same reasons as set forth in the

rejections of claims 1-10.

As for claim 21, the rejection of claim 11 is incorporated, and further Jackob

discloses: wherein the message and the errors are displayed concurrently (See column

11 lines 38-45 note: the message has to be displayed in order to edit it).

Claims 22-32 are program product claims corresponding to computerized system

claims 11-21 respectively and are thus rejected for the same reasons as set forth in the

rejections of claims 11-21.

Response to Arguments

Applicant's arguments filed 4/25/2008 have been fully considered but they are not persuasive.

<u>Applicant argues:</u>

Applicant respectfully submits that the cited references fail to teach or suggest that the message is crafted by a developer in association with development of a computer program code and delivered by the computer program code to an end user in response to an event during execution of the computer program code.

<u>Examiner responds:</u>

Examiner is not persuaded. Examiner is entitled to give claim limitations their broadest reasonable interpretation in light of the specification. Interpretation of Claims-Broadest Reasonable Interpretation: During patent examination, the pending claims must be 'given the broadest reasonable interpretation consistent with the specification.' Applicant always has the opportunity to amend the claims during prosecution and broad interpretation by the examiner reduces the possibility that the claim, once issued, will be interpreted more broadly than is justified. In re Prater, 162 USPQ 541,550-51 (CCPA 1969). In this case the only requirement is that the message is crafted by a developer *in association* with development of a computer program. In other words as long as the message Is related to the development of a computer program this claim limitation has been met.

Applicant argues:

Additionally, Applicant respectfully submits that the cited references also fail to teach or suggest that the reviewing of the message is done during development of the program code. Rather, to the extent that the messages in Aizenbud are reviewed, it is during execution of a program and not during development. Accordingly, Applicant respectfully requests that the rejection be withdrawn.

Examiner responds:

Examiner is not persuaded. Reference is made to MPEP 2144.01 - Implicit Disclosure "[I]n considering the disclosure of a reference, it is proper to take into account not only specific teachings of the reference but also the inferences which one skilled in the art would reasonably be expected to draw therefrom." In re Preda, 401 F.2d 825, 826, 159 USPQ 342, 344 (CCPA 1968). In this case Aizenbud paragraphs 0011,0022 have been further cited to show reviewing the message.

Applicant argues:

Furthermore, Applicant continues to submit that the cited references do not teach or suggest, inter alia, "...wherein the review standard includes review parameters selected from a group consisting of: character limits, line limits, spell checks, grammar checks and a combination thereof..." claim 1. In contrast, Aizenbud's message debugger is to track and/or edit the manner in which a message flows according to "the processing logic of a ... message flow diagram", ¶[0054]. As such Aizenbud's tracking

and/or editing of message flow is not concerned with the natural language content of the

message, but rather with the manner in which the message is delivered.

Examiner responds:

Examiner is not persuaded. Examiner is entitled to give claim limitations their

broadest reasonable interpretation in light of the specification. Interpretation of Claims-

Broadest Reasonable Interpretation: During patent examination, the pending claims

must be 'given the broadest reasonable interpretation consistent with the specification.'

Applicant always has the opportunity to amend the claims during prosecution and broad

interpretation by the examiner reduces the possibility that the claim, once issued, will be

interpreted more broadly than is justified. In re Prater, 162 USPQ 541,550-51 (CCPA

1969). One limitation listed is character limits, accordingly as long the review standard

in the system has a character limit this limitation is met.

Applicant argues:

With further regard to the rejection under 35 U.S.C. § 103 (a), Applicants also

submit that it makes no sense to combine Aizenbud with Jakobson. The Office admits

that Aizenbud is deficient in teaching the claimed feature of"...reviewing the message

based on the review standard to detect errors..." claim 1. However, the Office asserts

that it would have been obvious to a person of ordinary skill to cure Aizenbud's

deficiency with Jakobson. However, the two are directed to different fields of endeavor.

In Aizenbud, it is the flow of a message that is being ascertained and not the structure

thereof. Accordingly, while Jakobson includes a parsing step incorporating Jakobson's

parsing step into the message mechanism of Aizenbud's still does change Aizenbud

into a system that reviews linguistic aspects of a natural language message according

to a review standard. Accordingly, a combination of Aizenbud and Jakobson, at best,

parses each message but does not reviewed/analyzed the parsed message against

review parameters, much less natural language review parameters.

Examiner responds:

      Examiner is not persuaded. In response to applicant's argument, to combine the

references, the examiner recognizes that obviousness can only be established by combining or

modifying the teachings of the prior art to produce the claimed invention where there is some

teaching, suggestion, or motivation to do so found either in the references themselves or in the

knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071,

5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir.

1992). "Test of obviousness is not whether features of secondary reference may be bodily

incorporated into primary reference's structure, nor whether claimed invention is expressly

suggested in any one or all of references; rather, test is what combined teachings of references

would have suggested to those of ordinary skill in art." In re Keller, Terry, and Davies, 208

USPQ 871 (CCPA 1981).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time

policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later

than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Leon J. Harper whose telephone number is 571-272-

0759. The examiner can normally be reached on 7:30AM - 4:00Pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Hosain T. Alam can be reached on 571-272-3978. The fax phone number

for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

LJH
Leon J. Harper
July 19, 2008

/Hosain T Alam/
Supervisory Patent Examiner, Art Unit 2166